**THE HONOURABLE SRI JUSTICE C.V. RAMULU**

**WRIT PETITION NO.12996 OF 1998**

**DATED: 15-03-2007**

Between:

A.R.V. Raja Rao and another

.. Petitioners

and

The Regional Engineering College represented by its Principal, Kazipet, Warangal and another.

.. Respondents

**THE HONOURABLE SRI JUSTICE C.V. RAMULU**

**WRIT PETITION NO.12996 OF 1998**

**ORDER:**

This writ petition is filed seeking a mandamus declaring the proceedings of the 1st respondent dated 21.01.1998 in C3/I-110/98/9240, promoting/appointing the 2nd respondent to the post of Workshop Foreman from the post of Junior Assistant as a special case, on compassionate grounds and under special circumstances, as illegal, arbitrary and violative of Article 15 of the Constitution of India; and consequently to direct the 1st respondent to promote the petitioners as Workshop Foremen.

It appears, the petitioners 1 and 2 were appointed as Technical Assistants in the 1st respondent-college with effect from 24.02.1967 and 07.07.1967 respectively. The 2nd respondent was also appointed in the same post on 21.07.1967. The services of the petitioners were regularized from the date of their appointment and, since there were no promotional avenues, the petitioners have been continuing in the same post. Ignoring the seniority of the petitioners, the 1st respondent granted selection grade to their juniors. Aggrieved thereby, the petitioners have filed W.P.No.19973 of 1994 before this Court and the same is still pending. Certain vacancies in the post of Workshop Foreman have arisen subsequent to the filing of the said writ petition. The feeder post for the post of Workshop Foreman is Workshop

Supervisor/Technical Assistant. The Board of Governors, in its 110th meeting, has stipulated that the promotion to the post of Workshop Foreman shall be based on seniority from among the candidates who have at least four years of experience in the feeder post. Though the petitioners are eligible for promotion to the said post, surprisingly, the 2nd respondent was promoted as Workshop Foreman, under the impugned order dated 21.01.1998, treating his case as a special case. Hence, this writ petition.

A detailed counter-affidavit has been filed on behalf of the 1st respondent denying the allegations made by the petitioners. It is asserted in the counter-affidavit that selection grade to non-teaching staff was introduced by the Government of A.P. through G.O.Ms.No.173 Finance (PC) dated 13.06.1969 and the same was implemented in the college with effect from 01.04.1974 as decided by the Board of Governors of the College on 30.05.1997. The selection grade scales are applicable to 15% of the employees in each cadre. Accordingly, the senior most employees, one from Civil Engineering Department and one from Mechanical Engineering Department among the Lab Assistants (now called as Technical Assistants) were awarded selection grade scale. Subsequently, one Mr.B.J.Anantha Rao from Electrical Engineering Department was awarded Selection Grade. The petitioners challenged the same stating that the said B.J.Anantha Rao is junior to them. The contention of the college is that since the Civil Engineering and Mechanical Engineering Departments were already given the benefit, the College felt it reasonable to award the benefit to Electrical Engineering Department, since all the posts of Technical Assistants are having separate entity and are non-transferable to another department. This issue is pending before this Court. While that being so, one post of Workshop Foreman fell vacant due to retirement of one M.Muneshwar Rao with effect from

01.04.1997. Originally, as per rules, the post of Workshop Foreman was a direct recruitment post through open advertisement. The qualification prescribed for the post is Diploma in Mechanical Engineering with seven years experience in a reputed workshop out of which 5 years in a supervisory position. The Board of Governors of the College, at its 110th meeting held on 31.07.1997, decided to fill certain posts like Assistant Librarian, Workshop Foreman, Assistant Registrar by promotion basing on seniority. The feeder posts decided by the Board for promotion to the post of Workshop Foreman are Technical Assistants and Workshop Supervisors, who possess required qualification i.e. Diploma in Mechanical Engineering and four years experience, instead of seven years. Both the petitioners are eligible for promotion to the post of Workshop Foreman. Since only one vacancy is available, the 1st petitioner, who is senior among the two, is to be promoted. However, the Board, in the 110th meeting held on 31.07.1997, also decided to appoint the 2nd respondent as Workshop Foreman, waiving the required seven years of experience, as a special case on compassionate grounds and under special circumstances against the existing vacancy. Since the Board decided to fill the vacant post by promotion on seniority at one time and to fill it with 2nd respondent on compassionate grounds as a special case at another time, the promotion by seniority to 1st petitioner could not be given for want of clarification by the Board. However, in order to honour the decision of the Board and to meet the immediate requirement of the Workshop Foreman in the workshops to take care of Class Work pertaining to part time classes etc., the 2nd respondent was issued appointment orders on 21.01.1998, appointing him as Workshop Foreman purely on temporary basis, meeting the expenditure from FDH funds. The original vacant post was left as it is. The entire case

emerges from two contradictory decisions. The action taken by the college was placed before the Board at its 111th meeting held on 26.05.1998 seeking clarification.

Heard both sides.

It is brought to the notice of this Court that, during the pendency of the writ petition, the services of the 2nd respondent were terminated and the 1st petitioner was promoted with effect from 06.08.1999 and the 2nd petitioner was promoted with effect from 23.09.2001 to the post of Workshop Foreman.

In view of the above said subsequent events, nothing survives for adjudication in this writ petition and the writ petition is liable to be closed.

Accordingly, the writ petition is closed. There shall be no order as to costs.

**C.V. RAMULU, J**

15th March, 2007.
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